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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,488	11/15/2001	Carl I. Green	42390P13011	3371

7590

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EXAMINER

NGUYEN, HIEP T

ART UNIT	PAPER NUMBER
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2187

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,488

Applicant(s)

GREEN, CARL I.

Examiner

Hiep T Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-14, 16-26 and 28-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-14, 16-26 and 28-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is a response to the amendment filed January 20, 2004. The Applicant has canceled claims 4, 15 and 27. Claims 1-3, 5-14, 16-26, and 28-30 are pending in the application.

2. In the amendment filed January 20, 2004, Applicant basically incorporate the further claimed limitation in claim 4 into the claim 1; the further claimed limitation of claim 15 into the independent claim 12; and the further claimed limitation in claim 27 into the independent claim 24; and then cancel claims 4, 15, and 27.

Response to Arguments

3. Applicant's arguments filed January 20, 2004 have been fully considered but they are not persuasive.

a. With regards to the rejections under 35 USC 103(a), Applicant basically argued, "the packer 's APA and the 'well-known' features of which the Examiner takes Official Notice are incompatible and non-combinable. The whole point of Packer is that changing speeds is undesirable. Packer teaches away and indirect contrast to any device that would change speed based on file format or for any reason. Packer cites increased access time to retrieve information, detrimental effect on long-term reliability of the servo/motor assembly, and cost added complexity, as reasons for not providing a drive that changes speed based upon file format. Therefore, one skilled in the art, having the teachings of Packers before them, would in no way be motivated to form a lookup table having a plurality of data format types and their corresponding disc drive speeds" [paper no. 6, filed 1/20/04, the end of page 11 through the beginning of page 12].

b. However, as clearly pointed out by the examiner in the previous Office Action, that the Packer APA not the Packer's improvement was used in the rejection. In the Packer's APA the servo/motor assembly speed does change depending on the data types/formats [see again col. 1, lines 10-22 and col. 2, lines 16-29]. The question is how does the system know what speed the servo should be changed to when the Packer APA processor 20 receives a request for information that is speed dependent. Obviously, the system must have some source

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correspondents between the data types/formats and their corresponding speeds. Otherwise, when the Packer's APA processor 20 receives a request for information that is speed dependent, the system would not know what speed the servo should be changed to. It has been common practice in the art to form a lookup table to map the correspondents between two attributes such as that of servo speeds and data types, as disclosed by Packer 's APA.

c. The Packer improvement that employs a buffer and does not change servo speed is an entirely different embodiment, which is not used in the rejection.

d. Accordingly, the rejection of claims 1 (previously claim 4), 7, 12 (previous claim 15), 19, and claim 24 (previously claim 27) are hereby maintained for the same reasons as set forth in the previous Office Action [paper no. 4, mailed 10/6/03]. The further claimed limitations in claims 2-3, 5-6, 8-11, 13-14, 16-18, 20-23, 25-26, and 28-30 are also maintaining rejected for the same reason as set forth in the previous office action.

4. The rejection of claims 1-3, 5-14, 16-26, and 28-30 are re-iterate below for Applicant's convenience.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-14, 16-26, and 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Packer APA in view of well-known features of which Official Notice is hereby taken.

(a) As per claims 1 and 5-7, 10-11:

i. Packer APA teaches a method comprising:

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1. Using an optical drive to read a file from an optical storage medium, the optical storage device having a plurality of drive speeds [figure 3, col. 2, lines 16-28];
 2. Determining a drive speed from the plurality of drive speeds based upon a format of the file [see again col. 2, lines 16-28].
- ii. Packer APA, however, does not explicitly teach that the step of determining a drive speed further comprising a step of accessing a coded drive-speed lookup table stored as a firmware in a nonvolatile memory such as a ROM, PROM, EPROM, an EEPROM, or a flash memory.
 - iii. As previously mentioned that the Packer APA teaches multiple types of data format which is accessed at a predetermined and/or specific speed. Accordingly, the APA packer must have relied on some source of lookup table and/or certain predetermined information in order to control the disc drive speed in accordance to the specific type of data format. Furthermore, saving control information in a non-volatile memory is common practice in the art due to the fact that the data would be remained in the memory even when the system power is cut off.
 - iv. Accordingly, it would have been obvious to one having ordinary skill in the art, if not already inherent in the Packer APA, at the time the invention was made to form a lookup table having a plurality of data format types and their corresponding disc drive speeds, and storing such table into a non-volatile memory such as that of Packer APA EPROM 122.
- (b) As per claim 2: Packer APA further teaches various types of data format ranging from CD_ROM, photo CD, CD-I, DVD, laser disc, CD-audio to various video formats and that the different types of CD data are sometimes speed specific [see col. 1, lines 11-22]
- (c) As per claim 3: packer APA further discloses that the plurality of drive speeds comprises 1X and multiple of X [see col. 2, lines 19-28].

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(d) As per claims 12 –14 and 16-18: the claimed machine-readable medium is no more than storage medium for storing instructions for carrying the steps of claims 1 – 3 and 5-6.

The Packer APA must have carried out the mentioned steps using instructions stored in the RAM (124) or EPROM (122). Accordingly, Packer APA also teaches the claimed machine-readable medium.

(e) As per claims 19-26 and 28-30: the claimed apparatus/system basically comprises the corresponding means or elements for carrying out the steps in claims 1-3 and 5-6.

Accordingly, Packer APA also taught the claimed apparatus/system.

Conclusion

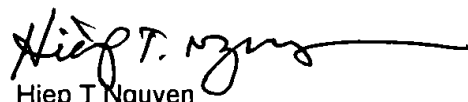
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hiep T Nguyen whose telephone number is (703) 305-3822. The examiner can normally be reached on Monday-Friday from 9:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (703) 308-1756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Hiep T Nguyen
Primary Examiner
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